

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)
vs.)
Plaintiff,)
JIM SUMMERS,)
Defendant.)
No .07-9017-MC-S-RED

REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE

The United States filed a Petition to Enforce Internal Revenue Service Summons. Filed with the Petition is a Declaration by Walt Stanton, Revenue Officer. Thereafter, a Show Cause Order was entered. On January 18, 2008, the taxpayer appeared personally for a show cause hearing, and the United States was represented by Earl Brown, Assistant United States Attorney. Testimony was given by the Revenue Officer.

United States v. Powell, 379 U.S. 48, 57-58 (1964), established the elements of the prima facie case that the government must present in seeking enforcement of a Revenue Service Summons. It must show 1) that the investigation will be conducted pursuant to a legitimate purpose; 2) that the inquiry may be relevant to the purpose; 3) that the information sought is not already within the Commissioner's possession, and 4) that the administrative steps required by the Code have been followed—in particular, that the “Secretary or his delegate,” after investigation, has determined the further examination to be necessary and has notified the taxpayer in writing to that effect. The Declaration and testimony of Revenue Officer Walt

Stanton established that the investigation of this taxpayer is for the purpose of collecting his tax liability for the calendar years ending December 31, 2001, 2002 and 2003. The records sought from the taxpayer are clearly relevant to the determination.

Because the prima facie case has been established, and because the taxpayer has done nothing to disprove a valid civil purpose for the investigation and summons, United States v. LaSalle National Bank, 437 U. S. 298, (1978), it is

RECOMMENDED that the Petition to Enforce Internal Revenue Service Summons be granted, and that the taxpayer be directed to appear before the United States District Judge to whom this matter is assigned at a time established by that Court and produce all records required by the summons or, in the alternative, show cause why he should not be held in contempt.

/s/ James C. England

**JAMES C. ENGLAND, CHIEF
UNITED STATES MAGISTRATE JUDGE**

Date: January 24, 2008